UNITED NATIONS

E/NL.1991/54-55
22 November 1991

SPANISH AND ENGLISH ONLY
ORIGINAL: SPANISH

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

BOLIVIA

Communicated by the Government of Bolivia

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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SUPREME DECREE NO. 22099

REGULATIONS IN APPLICATION OF LAW NO. 1008 ON THE REGIME APPLICABLE TO COCA AND CONTROLLED SUBSTANCES, 28 December 1988

TITLE I

The regime applicable to coca

CHAPTER I

Aim and objectives

Article 1. The aim of the present instrument is to establish regulations in application of the provisions of Law No. 1008 on the Regime Applicable to Coca and Controlled Substances.

Article 2. The objectives are to promote and facilitate the application of the law in accordance with paragraph 1 of article 96 of the Political Constitution of the State.

CHAPTER II

Zones

Article 3. The traditional coca cultivation zone, the transitional excess production zone and the illegal production zone are those defined in articles 9, 10 and 11 of Law No. 1008.

CHAPTER III

Production, distribution and marketing

Article 4. The Under-Secretariat for Alternative Development and Replacement of Coca Cultivation is responsible for controlling the production of coca leaf as well as State coca plant nurseries for exclusive supply to the traditional zone.

Coca plant beds outside State nurseries and in the possession of private individuals shall be considered illicit and consequently eradicated. In the event of repetition, those responsible shall be punished in accordance with article 46 of Law No. 1008.

Article 5. The Ministry of Rural and Agricultural Affairs shall organize and draw up the rural register of traditional and excess coca bush production zones. Lands which are not registered within one calendar year, counted from the date of the present regulations, shall be deemed areas of illicit production and their crops shall be eradicated without any compensation.

Article 6. The National Council for Agrarian Reform, the National Institute for Land Settlement and the Land Registry Offices of La Paz and Cochabamba shall remit to the Registry Office of the Ministry of Rural and Agricultural Affairs, within 120 days, effective from this date, the names of the beneficiaries by adjudication and/or endowment of lands situated in zones (a) and (b) described in articles 9 and 10 of Law No. 1008, with details of surface areas and changes which have occurred since such adjudication and/or endowment.

Article 7. In accordance with article 29 of Law No. 1008, and in conformity with the Integrated Plan for Development and Replacement (PIDYS), the Under-Secretariat for Alternative Development and Replacement of Coca Cultivation is responsible for determining the volumes of production of coca leaf for licit trade.

Article 8. The distribution and marketing of coca leaf for licit consumption and use shall be under the control of the National Directorate for the Control and Supervision of Coca Leaf, an agency of the Office of the Minister of the Interior, Migration and Justice, to prevent its diversion for illicit purposes.

Article 9. Producers of and/or traders in coca leaf who do not direct their product to the primary markets shall be sanctioned by confiscation and subsequent incineration. The establishment of channels not expressly authorized by the competent legal bodies is prohibited; it is also prohibited to issue bonds, vouchers or receipts not permitted by legal disposition.

CHAPTER IV

Alternative development and replacement of coca cultivation

Article 10. The Under-Secretariat for Alternative Development is responsible for planning and implementing the programme for the reduction of coca cultivation, in accordance with title I of Law No. 1008, and the design, start-up and execution of the Integrated Plan for Alternative Development and Replacement of Coca Cultivation (PIDYS).

Article 11. The Under-Secretariat for Alternative Development, through its technical bodies, shall undertake the tasks of defining of areas, measurement, land registration, census, licensing and registration of coca producers, and shall direct the regional and local programmes of the Integrated Plan for Development and Replacement.

Article 12. The Under-Secretariat for Alternative Development, through its technical bodies, shall administer and programme the annual targets, the system of economic compensation, and registration and certification of the voluntary reduction of coca cultivation. The said reduction shall be effected in parallel with the programming of local, micro-regional and regional development plans in the framework of PIDYS and in line with the availability of national and international financial resources, in accordance with chapter III of Law No. 1008.

Article 13. The Integrated Plan for Development and Replacement shall be the operative instrument for applying the rules laid down in Law No. 1008 and shall include programmes for the control of coca production and agricultural reconversion, economic revival, regional development and social participation.

Article 14. Producers shall participate in the various phases and stages of the execution of the Integrated Plan for Development and Replacement. For that purpose, the Under-Secretariat for Alternative Development shall organize regional, micro-regional and local committees of PIDYS.

Article 15. The National Fund for Alternative Development shall be subject to special regulation by the Under-Secretariat for Alternative Development.

Article 16. Producers of coca leaf who voluntarily participate in reduction and replacement programmes shall contact the specialized agency of the Under-Secretariat for Alternative Development, in the framework of PIDYS. Farmers settled in zones (a) and (b) defined in article 8 of Law No. 1008 who do not produce coca may also benefit from the alternative development programmes. Both individuals and groups shall be eligible to benefit from compensation funds, priority being given to economic and social projects.

TITLE II

Controlled substances

CHAPTER I

Prohibition and control

Article 17. The issue of licences for import and/or export and marketing of raw materials and finished medicaments containing controlled, narcotic and psychotropic substances shall be effected by ministerial decision, pronounced by the Ministry of Social Welfare and Public Health, which shall be communicated to the Special Force to Combat Drug Traffic.

Article 18. The import, export, preparation and marketing of the chemical substances for industrial use listed in schedule V of the annex to Law No. 1008, and those added subsequently, shall be authorized, supervised and controlled by the technical bodies of the National Council against the Abuse of and Illicit Traffic in Drugs.

Raw materials and finished medicines and chemical substances for industrial use which are not licensed shall be subject to seizure.

Article 19. Pharmacies authorized by the Ministry of Social Welfare and Public Health for the sale of medicaments containing controlled substances shall dispense their products only against medical prescriptions made out on forms issued by the Ministry, in duplicate, indicating the name and identity card of the patient. One copy shall be sent every thirty days to the Ministry of Social Welfare and Public Health and the other shall be retained by the pharmacy for its records.

Article 20. District customs offices, customs agents and carriers who within 48 hours have not sent detailed reports and documentation on the import and export of products or raw materials containing controlled substances to the Ministry of Social Welfare and Public Health and to the National Council against the Abuse of and Illicit Traffic in Drugs shall be liable to suspension of their functions or activities.

Owners of products containing controlled substances must, prior to their transport, request authorization from the Ministry of Social Welfare and Public Health. Carriers must require such authorization on pain of prosecution for complicity.

Controlled substances and medicines containing such substances which do not satisfy these requirements shall be seized, together with the means of transport and their owners shall be detained for investigation.

Article 21. The Special Force to Combat Drug Traffic shall maintain a national register of natural and legal persons engaged in the import, preparation and marketing of controlled substances, in the form of a data bank containing all the relevant information. Offenders shall be sanctioned according to the law.

Article 22. The Ministry of Social Welfare and Public Health, in cooperation with the Ministries of Industry, Trade and Tourism and of Energy and Hydrocarbons, shall compile an inventory of inward and outward movements and of stocks of drugs causing dependence in laboratories, pharmacies and import houses, and of precursors. They shall draw up statistics on the official and private requirements for such drugs and precursors.

Article 23. Laboratories, pharmaceutical establishments and commercial firms which manufacture, distribute and import drugs or medicines which cause dependence, as well as precursors, shall not possess quantities greater than those authorized.

TITLE III

Offences and penalties

SOLE CHAPTER

Article 24. In no case may the penalties for trafficking in drugs exceed 30 years' imprisonment, in accordance with article 17 of the Political Constitution of the State.

Article 25. Persons under the age of 16 who have committed offences punishable under Law No. 1008 shall be interned in special centres until they are fully rehabilitated.

Article 26. Possession for immediate personal consumption is understood as limited to the quantity of a drug equivalent to 48 hours' use, determined by two medical experts as defined in article 49 of Law No. 1008. If the quantity is greater, there is a presumption of trafficking.

Article 27. A person who assigns a movable or immovable asset for the purpose of the manufacture, storage, transport, sale or use of any controlled substances therein, and/or tolerates the consumption of controlled substances therein, shall be punished in accordance with article 71 of Law No. 1008.

Article 28. Movable or immovable assets or means of air, river or land transport which have been seized and have not been reclaimed by their owners within 30 days shall become the property of the National Council against the Abuse of and Illicit Traffic in Drugs.

Article 29. For the offences of supply and inducement, the quality and degree of the penalty shall take account of the method, form, quantity, time and place and of extenuating or aggravating circumstances.

Article 30. An offence is committed, which shall be sanctioned in accordance with the laws in force, by an owner or tenant of property or land where:

1. Landing strips exist or are constructed without authorization from the Ministry of Aviation;

2. Aircraft land or take off without authorization from the Ministry of Aviation or without sufficient cause, unless the nearest civil, military or district police authorities are notified immediately;

3. The owners or tenants of places where there are landing strips or airfields authorized by the Ministry of Aviation do not immediately notify the authorities of the take-off or landing of aircraft.

TITLE IV

SOLE CHAPTER

Office of the Public Prosecutor

Article 31. The local prosecutors assigned to the local controlled substances courts, district commands of the Special Force and the Under-Secretariat for Social Defence must be professionals qualified in the subject. Officials of the Under-Secretariat for Social Defence have national jurisdiction.

TITLE V

Judicial police duties, proceedings and judgement

SOLE CHAPTER

Article 32. Records of judicial police action drawn up by the provincial and cantonal authorities, together with any detained persons, must be handed over within 48 hours to the nearest district command of the Special Force.

Article 33. The period to which article 97 of Law No. 1008 refers shall be 48 hours for each detained person, with the purpose of completing the investigations.

Article 34. Records of judicial police action shall include the following documents:

(a) Accusation form (source of the information)

(b) Arrest form for each detained person

(c) Preliminary report

(d) Detailed report of the police officer

(e) Seizure record

(f) Record of weighing of the seized drug

(g) Laboratory analysis (if there is a laboratory)

(h) Supporting photographs

(i) Statements by the accused persons

(j) Other documentary evidence

(k) Record of confrontation of witnesses, if applicable

(l) Final report

(m) Note of transmission to the Office of the Public Prosecutor.

TITLE VII

Treatment, rehabilitation and social reintegration

SOLE CHAPTER

Article 35. The State and private enterprises shall not discriminate in the provision of employment to rehabilitated and socially readjusted persons.

Article 36. It is deemed to be in the public interest that non-profit civil societies, associations and foundations should be constituted for prevention, rehabilitation and scientific research in respect of the matters to which this law refers. Their functioning shall be subject to special regulations and to the provisions of the second paragraph of article 136 of Law No. 1008.

Article 37. The National Council against the Abuse of and Illicit Traffic in Drugs, through its competent organs, shall develop plans and programmes for prevention, treatment, rehabilitation and social reintegration, and for combating the illicit consumption of narcotic drugs and psychotropic substances.

Article 38. The Ministries of the Interior, Migration and Justice, National Defence, Aviation, Education and Culture, Information, the Armed Forces, the National Police and the Universities and other public and private institutions shall, in their plans and programmes for curricular studies, include subjects relating to prevention of abuse of narcotic drugs and psychotropic substances.

Article 39. Drug abuse shall be included as a compulsory subject for study in the curricula of education programmes from basic to higher level.

Article 40. The National Council against the Abuse of and Illicit Traffic in Drugs shall present to the educational community programmes transmitted through the mass media to provide information on treatment, rehabilitation and social reintegration.

Article 41. An interdisciplinary committee shall be set up in each educational community with the participation of teachers and parents and in collaboration with departmental prevention committees to promote and disseminate comprehensive knowledge of the phenomenon of drug abuse and its treatment.

Article 42. Institutes for treatment and rehabilitation shall be under the control and supervision of the Ministry of Social Welfare and Public Health.

Article 43. The country's health departments shall be responsible for supervising the functioning of the treatment, rehabilitation and social reintegration centres.

Article 44. When juvenile courts order compulsory internment of minors for treatment and rehabilitation in specialized health centres, administered by the Ministry of Social Welfare and Public Health, the social aspects shall be attended to by the competent bodies.

Article 45. The National Board for Social Solidarity and Development, through its organ for the protection of minors, shall define and implement rehabilitation policies for drug-dependent juveniles in cooperation with the National Council for Prevention and Rehabilitation.

Article 46. Departmental rehabilitation centres for drug-dependent juveniles shall be established, operating subject to the regulations laid down by the National Council for Prevention and Rehabilitation.

Article 47. Minors under 16 years of age who commit acts defined as offences under Law No. 1008 shall be committed for treatment as decided by the legally appointed specialized authority.

Article 48. The contents and methods of preventive information must be based on a knowledge of national realities in respect of the drug abuse problem and the recommendations of the United Nations and the specialized agencies of the United Nations system.

Article 49. Public information related to problems concerning the illicit traffic in and abuse of drugs shall be in conformity with the norms of journalistic ethics, aiming at preventive education and avoiding the distortion of facts and values. Violators shall be sanctioned in accordance with article 79 of Law No. 1008.

Article 50. The social communication media shall transmit educational and preventive messages, as provided in the second paragraph of article 142 of Law No. 1008.

Article 51. The public transmission of information showing minors and identifying them with acts related to drug trafficking or consumption is prohibited.

TITLE VIII

International cooperation

SOLE CHAPTER

Article 52. The National Council against the Abuse of and Illicit Traffic in Drugs shall coordinate international cooperation and shall determine the allocation and use of resources derived from that source through the appropriate bodies, plans and programmes.

Government Palace, city of La Paz, 28 December 1988

E/NL.1991/55

SUPREME DECREE No. 22373

REGULATIONS IN APPLICATION OF TITLE VI OF LAW No. 1008 ON THE REGIME APPLICABLE TO COCA AND CONTROLLED SUBSTANCES, 21 November 1989

CHAPTER I

Nature and aims of the National Council

Article 1. The National Council against the Abuse of and Illicit Traffic in Drugs, CONALID, is the supreme national body for the control of drug abuse and illicit traffic, as provided in article 132, title VI, of Law No. 1008 on the Regime Applicable to Coca and Controlled Substances.

Article 2. The purpose of the National Council against the Abuse of and Illicit Traffic in Drugs is to define and regulate national policy for: planning, organization, supervision, control and coordination of plans, programmes and projects for alternative development and replacement of coca cultivation; control, surveillance and interdiction of illicit drug traffic; prevention, treatment, rehabilitation and social reintegration.

CHAPTER II

Organization of the National Council

SECTION I

Composition

Article 3. The National Council against the Abuse of and Illicit Traffic in Drugs shall consist of the Minister for Foreign Affairs and Worship and the Ministers of the Interior, Migration, Justice and Social Defence, Planning and Coordination, Rural and Agricultural Affairs, Social Welfare and Public Health, Education and Culture, National Defence, Finance and Aviation, as provided in article 133 of the Law on the Regime Applicable to Coca and Controlled Substances.

The National Council may invite other ministers of State to participate if it considers this necessary.

Article 4. The National Council against the Abuse of and Illicit Traffic in Drugs shall be presided over by the Minister for Foreign Affairs and Worship or alternatively by the Minister of the Interior, Migration, Justice and Social Defence in the event of absence or other cause.

Article 5. The Permanent Executive Coordinating Council shall be established as the coordinating operational organ of the National Council against the Abuse of and Illicit Traffic in Drugs, and shall consist of the Ministers of the Interior, Migration, Justice and Social Defence, Rural and Agricultural Affairs and Social Welfare and Public Health; it shall be presided over by the Minister for Foreign Affairs and Worship or, in the event of absence or other cause, by the Minister of the Interior, Migration, Justice and Social Defence.

Article 6. The National Executive Directorate shall be established as an organ of the Permanent Executive Coordinating Council for the operational execution and coordination of plans, programmes and projects for alternative development, replacement of coca cultivation, prevention of drug abuse and control, surveillance and interdiction of illicit traffic in controlled substances.

SECTION II

Functions of the National Council against the Abuse of and Illicit Traffic in Drugs (CONALID)

Article 7. The functions of the National Council against the Abuse of and Illicit Traffic in Drugs are as follows:

(a) To comply and ensure compliance with the Law on the Regime Applicable to Coca and Controlled Substances;

(b) To formulate government policy in relation to controlled drugs;

(c) To coordinate and evaluate the execution and implementation of plans and projects on the subject, developed by operational areas;

(d) To establish public investment policies in the area, for incorporation in the national budget;

(e) To regulate and supervise the application of the national policy for the control of drug abuse and illicit traffic.

SECTION III

Functions of members of the National Council

Article 8. The President of the National Council against the Abuse of and Illicit Traffic in Drugs is responsible for:

(a) Directing, coordinating and supervising the activities of CONALID;

(b) Representing the National Council in such functions as are required;

(c) Approving the agenda of meetings;

(d) Convening and presiding over meetings, and ensuring that their decisions are implemented;

(e) Signing decisions and resolutions of the National Council;

(f) Coordinating and directing the preparation of the annual report on its activities.

Article 9. The members of the National Council shall:

(a) Participate and vote in plenary meetings;

(b) Propose or request clarifications useful for a better understanding of the matters under consideration;

(c) Undertake other activities assigned to them by the President of the Council;

(d) Participate in special commissions.

CHAPTER III

Administrative organization

SECTION I

Competence of the Permanent Executive Coordinating Council

Article 10. The Permanent Executive Coordinating Council is responsible for coordinating the operational implementation of national policy in the following areas:

(a) Alternative development and replacement of coca cultivation;

(b) Control, surveillance and interdiction of illicit drug trafficking;

(c) Prevention, treatment, rehabilitation and social reintegration.

Article 11. The function of the Permanent Executive Coordinating Council is to regulate the application of national policy for controlling drug abuse and illicit drug trafficking.

Article 12. The Permanent Executive Coordinating Council may delegate its operational and administrative functions to the National Executive Director for the execution of plans, programmes and projects in coordination with the under-secretariats in each area, as provided in article 51 of the Law on the Administrative Organization of the Executive Power, which entered into force by Decree 10460 of 12 September 1972.

SECTION II

Competence of the National Executive Directorate

Article 13. The National Executive Directorate is responsible for supporting and coordinating technical and administrative activities required for the functioning of the Permanent Executive Coordinating Council and for carrying out the following functions:

(a) Planning, supervising and coordinating activities in the operational areas of the following organs:

Under-Secretariat for Social Defence;

Under-Secretariat for Alternative Development and Replacement of Coca Cultivation;

Under-Secretariat for Prevention, Treatment, Rehabilitation and Social Reintegration;

(b) Coordinating, in the framework of national policy on the subject, the formulation and supervision of plans, programmes and projects in the areas of: control and supervision of coca production; suppression and interdiction of illicit drug trafficking, alternative development and replacement of coca cultivation; prevention, treatment, rehabilitation and social reintegration;

(c) Analysing and proposing alternative options in international agreements and contracts on the subject with national entities, in collaboration with the Permanent Executive Coordinating Council;

(d) Preparing the general budget of the National Executive Directorate, for its subsequent inclusion in the general budget of the nation;

(e) Creating offices or agencies required in order better to achieve the basic objectives of the National Executive Directorate;

(f) Managing and administering bilateral and multilateral international cooperation, under the guidelines established by the Permanent Council and CONALID;

(g) Organizing an information and communications network in support of the normative and surveillance organs and central and local executive and operational organs.

SECTION III

Functions of the National Executive Directorate

Article 14. The functions of the National Executive Directorate are the following:

(a) To draw up periodic reports to the Permanent Executive Coordinating Council on tasks carried out in the performance of its functions;

(b) To represent the country in international events and vis-à-vis agencies specializing in the subject;

(c) To manage donations from and cooperation extended by national and international persons, entities or organizations for the benefit of the National Council;

(d) To manage external technical and financial cooperation from international drug control agencies, complying with the respective legal formalities;

(e) To evaluate and follow up the progress of execution of plans, programmes and projects in the operational areas and those of public, private and mixed institutions;

(f) To control and supervise the marketing and circulation of substances listed in schedule V of Law No. 1008.

CHAPTER IV

Organization of the National Fund for Alternative Development

Article 15. The National Fund for Alternative Development, established by article 23 of the Law on the Regime Applicable to Coca and Controlled Substances, is a subordinate agency of the National Executive Directorate.

Article 16. The National Fund for Alternative Development has the purpose of promoting social and economic development through the financing of plans, programmes and projects for public investment, in the framework of the Integrated Plan for Alternative Development and Replacement of Coca Cultivation (PIDYS) and the financing of programmes and projects in the areas of surveillance, control and interdiction, prevention, treatment, rehabilitation and social reintegration.

Article 17. Its operational policies, its functional organic structure and its functions and attributions and economic and financial regime shall be governed by special regulations.

CHAPTER V

Structures of operational and executive under-secretariats

SECTION I

Organization, functions and attributions of the Under-Secretariat for Alternative Development and Replacement of Coca Cultivation

Article 18. The Under-Secretariat for Alternative Development and Replacement of Coca Cultivation is technically and functionally an agency of the National Executive Directorate. Politically and administratively, it is an independently managed agency of the Ministry of Rural and Agricultural Affairs.

Article 19. Its attributions are:

(a) Planning and programming the application of national policy for alternative development and replacement of coca cultivation;

(b) Programming the voluntary reduction of coca cultivation;

(c) Planning the administration of chapter III of the Law on the Regime Applicable to Coca and its implementing regulations, both at central and local level;

(d) Organizing and starting up the National Commission for Alternative Development (CONADAL) and local and regional committees for alternative development, as provided in Supreme Decree 22270 of 26 July 1989, regulating the Integrated Plan for Alternative Development and Replacement of Coca Cultivation.

Article 20. Other attributions are to coordinate, analyse and evaluate plans, programmes and projects in its area of competence with the National Executive Director.

Article 21. Its operational policies and its functional organic structure shall be governed by internal rules.

SECTION II

Organization, functions and attributions of the Under-Secretariat for Social Defence

Article 22. The Under-Secretariat for Social Defence is technically and functionally an agency of the National Executive Directorate. Politically and administratively, it is an independently managed agency of the Ministry of the Interior, Migration, Justice and Social Defence.

Article 23. Its attributions are:

(a) Planning and programming the application of national policy for the control, surveillance and interdiction of illicit drug trafficking;

(b) Carrying out judicial police duties in controlled substance cases, through the Special Force to Combat Drug Traffic (article 93 of Law No. 1008);

(c) Controlling and supervising the marketing and circulation of coca leaf;

(d) Controlling and supervising the marketing and circulation of the substances listed in schedule V of Law No. 1008.

Article 24. It shall coordinate, analyse and evaluate plans, programmes and projects in its area of competence with the National Executive Director.

Article 25. The Special Force to Combat Drug Traffic is an agency of this Under-Secretariat, in accordance with article 135 of Law No. 1008.

Article 26. The National Directorate for the Control and Supervision of Coca, responsible for legal coca, is incorporated in the organic structure of this Under-Secretariat.

Article 27. The operational policies and functional organic structure of the Under-Secretariat shall be subject to internal regulation.

SECTION III

Organization, functions and attributions of the Under-Secretariat for Prevention, Treatment, Rehabilitation and Social Reintegration

Article 28. The Under-Secretariat for Prevention, Treatment, Rehabilitation and Social Reintegration is technically and functionally an agency of the National Executive Directorate. Politically and administratively, it is an independently managed agency of the National Council against the Abuse of and Illicit Traffic in Drugs.

Article 29. Its attributions are:

(a) Applying plans and programmes for comprehensive prevention of drug abuse;

(b) Applying plans and programmes for treatment, rehabilitation and social reintegration of children, prisoners and users dependent on drugs, in cooperation with the competent institutions;

(c) Designing a national programme for prevention of drug abuse;

(d) Administering and directing State institutions for prevention, treatment and rehabilitation;

(e) Coordinating plans, programmes and projects with private institutions and non-governmental agencies.

Article 30. It shall coordinate, analyse and evaluate plans, programmes and projects in its area of competence with the National Executive Director.

Article 31. Its operational policies and its functional organic structure, centrally and locally, shall be subject to internal regulation.

Article 32. The National Institute for Drug-Dependency Research (INIF) and all State agencies for prevention and treatment are incorporated in the organic structure of this Under-Secretariat.